IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2800 of 2005

Between:

Gouthu Kondaiah, S/o. Satyam,
R/o. Kathipudi, Shankavaram Mandal,

East Godavari District.

..... PETITIONER

AND

1 The Commissioner of Endowments,

Government of A.P., Tilak Road, Hyderabad.
2 The Deputy Commissioner, Endowments Department,
Kakinada, East Godavari District.
3 The Manager, Sri Raja Vatsavaya Buchi Seetayamma Rani,

Bahadur Vari Choultry, Kathipudi, Shankvaram Mandal,
East Godavari District.
4 The Assistant Commissioner, Endowments Department,
Rajamundry, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus directing the Respondents to consider the representation dated 20-12-2004 made by me before conducting any action to the shops situated in 300 sq. Yards of land in Survey NO. 53/1, by declaring the action of the Respondents in issuing the Auction Notice dated 10-02-2005 as arbitrary, unjust, unconstitutional and against the rules framed under the A.P.C.I. & H.R.E. Act and pass such other order or orders as this Hon'ble may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MS.I.MAAMU VANI
Counsel for the Respondents: GP FOR ENDOWMENTS

The Court at the admission stage made the following :

ORDER:

The petitioner was granted lease for a period of one year in respect of 300 Sq.yards of land belonging to Sri Raja Vatsavaya Buchi Seetayamma Rani Bahadur Vari Choultry, through proceedings dated 13-01-2004. The petitioner states that with the permission of the Management of the Trust, he has invested huge amounts and brought about constructions. The grievance of the petitioner is that the respondents are proposing to hold auction for granting leasehold rights in respect of four shops existing on the same land.

The petitioner states that he made a representation to the respondents for extension of the lease, duly enhancing the lease amount, and complains that the same has not been considered.

Heard the learned counsel for the petitioner and the learned Government Pleader for Endowments.

It is not in dispute that the lease granted in favour of the petitioner is in respect of the open land and for a period of one year. The period has expired. What is sought to be auctioned now is the leasehold rights in respect of the four mulgies. Therefore, the question of the respondents being directed to consider the representation of the petitioner for continuance of the lease by enhancing lease amount does not arise. It is extensively urged before this Court that no lease can be granted in respect of constructed premises for commercial purposes, and it can be only licence. Reference is made to the rules framed under the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 for this purpose. There is no reason to believe that the respondents do not follow the Rules, at the time of granting lease or licence as the case may be. The various terms and conditions contained in the Rules are required to be incorporated in the lease or licence as the case may be, in favour of the successful bidder.

Having regard to the fact that the petitioner was the lessee for the previous year over the land, his case can be considered for being granted lease or licence as the case may be, if he is prepared to pay the amount that is fetched in the highest bid in the auction.

For the foregoing reasons, the writ petition is disposed of directing that it shall be open to the respondents to proceed with the proposed auction and grant lease or licence as the case may be. It is further directed that in case the petitioner is willing to pay the amount, which is fetched in the highest bid in the auction in respect of the shop or shops, he shall be granted such lease or licence. There shall be no order as to costs.

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17-02-2005

Note: Issue C.C in two days.

B/o.

vs

To

1 The Commissioner of Endowments,

Government of A.P., Tilak Road, Hyderabad.

2 The Deputy Commissioner, Endowments Department,
Kakinada, East Godavari District.

3 The Manager, Sri Raja Vatsavaya Buchi Seetayamma Rani,

Bahadur Vari Choultry, Kathipudi, Shankvaram Mandal,
East Godavari District.

4 The Assistant Commissioner, Endowments Department,
Rajamundry, East Godavari District.

5 2 CC to the G.P for Endowments, High Court Buildings,

Hyderabad(O.U.T).

6 2 CD copies